

IN THE UNITED STATES ARMY
FIRST JUDICIAL CIRCUIT

UNITED STATES)

v.)

MANNING, Bradley E., PFC)


U.S. Army, (b) (7)(C))

Headquarters and Headquarters Company, U.S.)

Army Garrison, Joint Base Myer-Henderson Hall,)

Fort Myer, VA 22211)

**DEFENSE SPECIFIC
OBJECTION UNDER R.C.M.
1001(b)(4) FOR CDR
YOUSSEF ABOUL-ENEIN**

DATED:  August 2013

RELIEF SOUGHT

1. COMES NOW PFC Bradley E. Manning, by counsel, pursuant to applicable case law and Rule for Courts Martial (R.C.M.) 1001(b)(4), requests this Court to sustain the Defense's specifically lodged objections to the testimony of Commander Youssef Aboul-Enein (hereafter CDR A-E).

STANDARD

2. A military judge's decision to admit or exclude evidence is reviewed for an abuse of discretion. *United States v. Stephens*, 67 M.J. 233, 235 (C.A.A.F. 2009).

DISCUSSION

3. The Defense specifically objected to the following testimony:

(a) CDR A-E's testimony that specifically mentioned the Little Rock recruiting station shooting and the Fort Hood shooting is irrelevant under both MRE 402 and MRE 403. The defense requests that the Military Judge not consider that testimony in her capacity as the Sentencing Authority.

(b) CDR A-E's general testimony about the implicit threat of British and American officials from militant islamist organizations through public identification. The only matters appropriate for consideration are the threats that directly related to or resulted from PFC Manning's misconduct. The general testimony about the practice is barred by RCM 1001(b)(4).

(c) The testimony beginning with the discussion of the "Manchester Document" and ending with how that historical lesson provides insight into how militant islamists may use the purported SIGACTs from CIDNE-I/A. This testimony involved a level of speculation that made it inadmissible. ("Speculation" was the word used by CDR A-E on both direct and cross on this

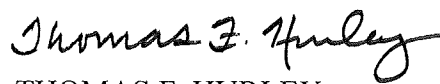
particular topic.) There was no application of expertise to a given set of facts by the witness – only the telling of a fabricated narrative. MRE 702. The defense also objects to the evidence as violating RCM 1001(b)(4).

(d) CDR A-E’s testimony regarding militant islamist organizations potential uses of SIGACTs. Again, “speculation” was the word used by CDR A-E. By speculating, even an expert fails to meet the appropriate standards for his testimony under MRE 702. The evidence is also inadmissible under RCM 1001(b)(4).

CONCLUSION

4. In light of the foregoing, the Defense requests this Court to disregard the improper testimony offered by CDR A-E.

Respectfully submitted,



THOMAS F. HURLEY
MAJ, JA
Defense Counsel